

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

WP

MUNICIPAL TRUST AND SAVINGS BANK,)
)
)
 Plaintiff,)
)
)
 v.) No. 04 C 6725
)
)
MARIANNE CLARK, TRUSTEE ROCK CREEK)
TRUST, et al.,)
)
 Defendants.)

MEMORANDUM ORDER

On February 25, 2005, pursuant to proper notice previously served by mail on all parties in interest by plaintiff Municipal Trust and Savings Bank ("Bank") on February 16, this Court issued its Order for Enforcement of Assignment of Rents in Bank's favor. Although none of the parties served had chosen to appear in response to the motion, one of them--Rex Eugene Black ("Black," describing himself as "Authorized Representative")--has now tendered a legally mistaken set of documents:

1. a photocopy of what he labels as "Verified Petition for Injunctive and Declaratory Relief in Response to Foreclosure Action," showing that it was filed on February 23, 2005 in the Circuit Court of the Twelfth Judicial District, Will County in Case No. 03 CH 2062;

2. his "Petition for Stay of Assignment of Rents," by which he seeks to halt all proceedings here until the resolution of what he characterizes as the "Ultra Vires challenge that is filed with the Illinois state Circuit

Court"; and

3. what he labels as "Defendant's Memorandum of Law in Support of Brief."

As for the first of those documents Black's filing is in direct violation of 28 U.S.C. §1446(d), because that state court action was removed to this District Court on October 19, 2004, and the cited statute expressly provides that upon such removal "the State court shall proceed no further unless and until the case is remanded." Because Black's filing is therefore a nullity, this Court is transmitting a copy of this memorandum order to the Will County Circuit Court to assure that no action is taken there in violation of the federal statute.

That being so, the second document--the Petition for Stay of Assignment of Rents--has matters turned on their head. With Black's attempted filing in the state court being a nullity, his attempt to obtain a stay collapses of its own weight.

Finally, Black's Memorandum of Law provides a paradigmatic demonstration of Alexander Pope's aphorism that "A little learning is a dangerous thing."¹ Because no effort at characterization could do justice to the three filings (just as no attempted characterization could fully capture the flavor of Black's statements in his Certificate of Service and his Verification that form part of his second-listed document), this

¹ Essay on Criticism, pt. II, line 15.

Court will not exercise the available prerogative of striking all of Black's submissions as legally ineffectual. Instead the documents will be accepted for filing, and this Court denies the Petition for Stay of Assignment of Rents out of hand.


Milton I. Shadur
Milton I. Shadur
Senior United States District Judge

Date: March 14, 2005